

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RACHEL KELLY AND TONI
BOARDMAN, individually and on behalf of
all others similarly situated,

C.A. No. 2:20-cv-01204-CCC-ESK

Plaintiffs,
v.
DSV AIR & SEA, INC.,
Defendant.

ORDER

THIS MATTER having come before the Court, the Court having granted Plaintiffs' Unopposed Motion for Preliminary Approval of the Settlement (ECF No. 43), and having conducted a Final Approval Hearing on August 4, 2021, and having reviewed Plaintiffs' Unopposed Motion for Final Approval of the Settlement and the Settlement Agreement (ECF Nos. 47, 41-2), supporting memorandum and exhibits, and the filings, records, and pleadings in this matter,

IT IS HEREBY ORDERED that:

1. Plaintiffs' Unopposed Motion for Final Certification under the Fair Labor Standards Act ("FLSA") and for Final Approval of the Settlement is **GRANTED**.
2. Pursuant to 29 U.S.C. § 216(b), for purposes of settlement only, the Court hereby finally certifies this lawsuit as a collective action on behalf of the following group: All individuals who were employed by DSV in the role of Ocean Import Agents, Ocean Export Agents, Air Import Agents, Air Export Agents, Customer Service Agents, and Freight Forwarders (collectively, "Agents") during the period of June 1, 2017 through May 17, 2020.
3. The Court hereby approves of the parties' agreed-upon Settlement Payment Distribution Process and directs the Administrator to mail the settlement

checks in accordance with the Settlement Agreement. (See Settlement Agmt. ¶ 6.9, ECF No. 41-2.)

- a. Within 14 days of the final Effective Date of the Settlement (31 days from this Order), the Claims Administrator will mail the Round 1 payments to Participating Collective Class Members.¹
 - i. During this 14-day timeframe, the Claims Administrator shall issue checks for the approved Service Awards (\$5,000 each) to Named Plaintiffs Kelly and Boardman.
 - ii. During this 14-day timeframe, the Claims Administrator shall also issue checks for the approved Plaintiffs' Counsel's fees (\$500,000) and costs (\$9,723.22).
 - iii. The Claims Administrator's fees of up to \$20,000 is approved and it shall also be paid ninety percent (90%) of its fees within this 14-day timeframe.
- b. Within 60 days from the mailing of the Round 1 payments, the Claims Administrator will mail the Round 2 payments to Participating Collective Class Members.
- c. Each Participating Collective Class Member will have 120 days to cash their checks after they are issued. At the conclusion of the 120-day period, any uncashed checks will be held in a Contingency Fund and will be available to be reissued by way of replacement check until May

¹ The parties have agreed to accept as timely late opt-in plaintiffs who submitted their Consent, Claim Form and Release before August 4, 2021.

30, 2023. The Claims Administrator shall be paid the remaining 10% of its fee at the time of final distribution of the Qualified Settlement Fund.

- d. Any unclaimed checks as of April 30, 2023, will be donated to the parties' agreed-upon Cy Pres Beneficiary, Legal Services of New Jersey ("LSNJ").
4. The representations, agreements, terms, and conditions of the parties' proposed settlement embodied in the Settlement Agreement and the exhibits thereto (ECF No. 41-2), are finally approved as discussed below.
5. The Court acknowledges that Defendant has (a) asserted a number of separate and affirmative defenses to this action; (b) agreed to the settlement without admission of liability or wrong-doing; and (c) consented to collective action certification pursuant to Section 216(b) for settlement purposes only.
6. The Court has conducted a final review of the details of the proposed Settlement Agreement, including information regarding distribution of the settlement value, the mechanisms for notifying and paying Collective Class members, the percentage of anticipated recovery, attorneys' fees and costs, and the Named Plaintiff Service Awards. The Court finds that the settlement is a fair and reasonable resolution of a bona fide dispute. *See Davis v. Essex Cnty.*, 2015 WL 7761062, at *2 (D.N.J. Dec. 1, 2015); *see also* Fed. R. Civ. P. 23(e)(2). Accordingly, the Court finally approves

Plaintiffs' Counsel's requested attorneys' fees and costs and the Named Plaintiff Service Awards.

7. Within 14 days of the expiration of the time for the Claims Administrator to issue settlement payments to Round 2 Participating Collective Class Members, the Parties will submit a stipulation of dismissal with prejudice.
8. Without affecting the finality of this Order, the Court retains exclusive and continuing jurisdiction over the litigation over the consummation, interpretation, and implementation of the parties' Settlement Agreement.

Dated: August 4, 2021



Hon. Claire C. Cecchi
United States District Court Judge